

REMARKS

In response to the above-identified Office Action (“Action”), Applicant traverses the Examiner’s rejection of the claims and seeks reconsideration thereof. Claims 1-14 are pending in the present application. Claims 1-3 and 9-12 are rejected and claims 4-8, 13 and 14 are objected to. In this response, claims 1, 4, 6-8 and 11-14 are amended, no claims are cancelled and no claims are added.

I. Claim Amendments

Applicant respectfully submits herewith amendments to claims 1, 4, 6-8 and 11-14. Claim 1 is amended to correct a grammatical error. Claims 4, 6-8 and 13-14 are amended to depend from claim 1 or claim 9. Claims 11 and 12 are amended to delete the phrase “i.e.” found indefinite by the Examiner.

Applicant respectfully submits the amendments do not add new matter and are supported by the specification. Accordingly, Applicant respectfully requests consideration and entry of the amendments to claims 4, 6-8 and 11-14.

II. Drawings

Applicant respectfully submits herewith amendments to Figure 3. In particular, Figure 3 is amended to replace one of the reference characters 30 with the correct reference character 20 as indicated on the Annotated Sheet. The amendments are submitted in the form of a “Replacement Sheet” in compliance with 37 CFR 1.121(d). Accordingly, Applicant respectfully requests entry of the amendments to Figure 3 and withdrawal of the objection to Figure 3 on this basis.

III. Claim Objections

In the outstanding Action, claims 4-8 and 13-14 are objected as being in improper multiple dependent form. Applicant respectfully submits the attached amendments to claims 4, 6-8 and 13-14 in which the claims have been amended to depend from either claim 1 or claim 9.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the above-referenced objections to claims 4-8 and 13-14.

IV. Claim Rejections – 35 U.S.C. §112

In the outstanding Action, claims 11 and 12 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As previously discussed, claims 11 and 12 are amended to delete the phrase “i.e.” found indefinite by the Examiner. Applicant believes claims 11 and 12 as amended are now in compliance with 35 U.S.C. §112, second paragraph. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 11 and 12 under 35 U.S.C. §112, second paragraph.

V. Claim Rejections – 35 U.S.C. §102

A. In the outstanding Action, claims 1-3 and 9-12 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,358,047 issued to Lehmann (“Lehmann”). Applicant respectfully traverses the rejection.

It is axiomatic to a finding of anticipation that each and every element of the rejected claim be found within a single prior art reference.

In regard to independent claims 1 and 9, Applicant respectfully submits Lehmann fails to teach a device or method for automatically determining the shade of an object including at least the elements of “means for wavelength analysis on this light after reflection or passing through the object, these means delivering a spectrometric reading corresponding to the sampling area, characterized in that the analysis means are provided for analyzing a set of such spectrometric readings corresponding to different areas (20, 30, 40) of the object (10) and identifying an average spectrometric reading from this set of spectrometric readings” (claim 1) and “to establish a spectrometric reading of a relevant area of the object (10), the step consisting of inferring from this analysis a shade of the object, characterized in that the step consisting of sampling light in different areas (20, 30, 40) of the object (10), the step consisting of analyzing a set of sampled wavelengths in different areas (20, 30, 40) for establishing a plurality of spectrometric readings

corresponding to these different areas, and then the step consisting of identifying an average spectrometric reading from this set of spectrometric readings, are applied” (claim 9).

Applicants respectfully submit claims 1 and 9 are directed to a device and method, respectively, for automatically determining the shade of an object, including a light source, a light sensor positioned so as to sample on an area of the object light reflected or passing through the object, further comprising means for wavelength analysis on this light after reflection or passing through the object, these means delivering a spectrometric reading corresponding to sampling area, the analysis means are provided for analyzing a set of such spectrometric reading corresponding to different areas of the object and identifying an average spectrometric reading from this set of spectrometric readings.

Lehmann generally discloses a method for determining the shade of a patient’s tooth. See Lehmann, Abstract. Lehmann discloses analyzing the shade of the tooth of a patient by conducting an analysis of a red, green, blue (RGB) image of said tooth, by using a classical image treatment. Lehmann discloses analyzing color information obtained by calculation of mean values done on pixels of the image taken by a camera comprising a tri-CCD captor (one red captor, one green captor and one blue captor). Applicant respectfully submits analysis of pixels from RGB images taken by a camera as disclosed in Lehmann may not be characterized as delivering a spectrometric reading and analyzing a set of such spectrometric readings corresponding to different areas of an object and identifying an average spectrometric reading as required by claims 1 and 9. Such distinctions between the claimed device and method and the system of Lehmann are further evidenced by the fact that the system of Lehmann is not as reliable, precise or powerful as the device and method of claims 1 and 9.

Since Lehmann fails to teach each and every element of claims 1 and 9, claims 1 and 9 are not anticipated by the cited prior art reference. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 9 under 35 U.S.C. §102 over Lehmann.

In regard to claims 2-3 and 10-12, these claims depend from claims 1 and 9, respectively, and incorporate the limitations thereof. Thus, for at least the reasons that claims 1 and 9 are not

anticipated by Lehmann, claims 2-3 and 10-12 are further not anticipated by the cited prior art reference. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-3 and 10-12 under 35 U.S.C. §102 over Lehmann.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-14, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

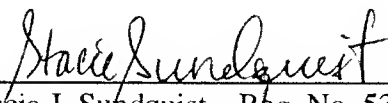
PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on MARCH 19, 2008, Applicants respectfully petition Commissioner for a one (1) month extension of time, extending the period for response to JULY 19, 2008. The amount of \$60.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity will be charged to our Deposit Account No. 02-2666.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on July 10, 2008.


Si Vuong